



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on March 8, 2005

Date of Meeting: September 13, 2004

The Mayor and Council of the City of Tucson met in regular session, in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:48 p.m. on Monday, September 13, 2004, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5 (departed at 8:46 p.m.)
Fred Ronstadt	Vice Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

Staff Members Present:

James Keene	City Manager
Michael Rankin	City Attorney
Kathleen S. Detrick	City Clerk
Michael D. Letcher	Deputy City Manager

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by President José P. Fierros, Los Reales (Spanish) Branch, the Church of Jesus Christ of Latter-day Saints, after which the pledge of allegiance was presented by the entire assembly.

Presentations

- a. Presentation was made by Council Member Scott, regarding the Fourth Annual Ward 4 Back to School Bash and awards were given to all who contributed. Certificates of Appreciation were also distributed to neighborhood representatives who assisted with the event.
- b. Mayor Walkup, assisted by Council Member West, presented an “Extraordinary Citizen Award” to Richard “Dick” McConnell in recognition of his incredible coaching career in Tucson.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 486, dated September 13, 2004, would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

- a. Vice Mayor Ronstadt thanked everyone for their emails and calls during his illness last week.
- b. Mayor Walkup welcomed visiting Mayors from Lithuania.

4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 487, dated September 13, 2004, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events and asked for that report.

James Keene, City Manager, reported:

- a. On Tuesday, September 14, 2004 at 10:00 a.m., there would be a groundbreaking ceremony to mark the start of construction of the Pennington Street Garage. This project would be the first City of Tucson design-built project, the first fully solar-powered building downtown and the first mixed-use retail project downtown.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 482, dated September 13, 2004, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. New Licenses

1. TARGET 179
5255 E. Broadway Blvd.
Applicant: Robert J. Benton
City 046-04, Ward 6
Series 10
Action must be taken by: September 23, 2004
Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance
2. JW MARRIOTT STARR PASS
RESORT & SPA
3800 Starr Pass Blvd.
Applicant: John W. Adams
City 048-04, Ward 1
Series 11
Action must be taken by: September 23, 2004
Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance
3. ECKERD DRUGS 7841
4365 N. Oracle Road
Applicant: Jason B. Morris
City 049-04, Ward 3
Series 10
Action must be taken by: September 27, 2004
Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

Person/Location Transfer

4. ZONA 78 WOOD FIRED FOODS
78 W. River Road
Applicant: Thomas P. Firth
City 050-04, Ward 3
Series 7
Action must be taken by: September 26, 2004
Staff Recommendation
Police: In Compliance
DSD: In Compliance
Revenue: In Compliance

c. Special Events

- | | | |
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| 1. | COMITE DE FESTIVIDADES MEXICANAS
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T065-04, Ward 1
Date of Event: October 3, 2004
Día de la Raza | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Parks: In Compliance |
| 2. | BALLET FOLKLORICO MEXICA
3700 S. La Cholla Blvd.
Applicant: Mercedes M. Guerrero
City T066-04, Ward 1
Date of Event: October 10, 2004
Anniversary Celebration | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Parks: In Compliance |
| 3. | SUN SOUNDS OF ARIZONA
3400 E. Camino Campestre
Applicant: Mitzi M. Tharin
City T070-04, Ward 6
Date of Event: September 25, 2004
Fundraising | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance
Parks: In Compliance |
| 4. | TUCSON BOTANICAL GARDENS
2150 N. Alvernon Way
Applicant: Michelle G. Conklin
City T071-04, Ward 6
Date of Event: October 10, 2004
Fundraising Event/Opening of Butterfly Exhibit
Public Opinion: Support Filed | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |
| 5. | OUR LADY QUEEN OF ALL SAINTS
2915 E. 36th Street
Applicant: Albert P. Borboa
City T075-04, Ward 5
Date of Event: September 24, 2004
September 25, 2005
Resource Programs for the poor | <u>Staff Recommendation</u>

Police: In Compliance
DSD: In Compliance |

Kathleen S. Detrick, City Clerk, announced that all the requests on the Liquor License Agenda carried recommendations for approval and no protests had been filed.

Mayor Walkup called on Council Member Leal.

It was moved by Council Member Leal, duly seconded, and carried by a voice vote of 7 to 0, that liquor license applications 5b1 through 5b4 and 5c1 through 5c5, be forwarded to the Arizona State Liquor Board with a recommendation for approval.

6. CONSENT AGENDA ITEMS A THROUGH J

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

A. INTERGOVERNMENTAL AGREEMENT: WITH PIMA COUNTY FOR SAFE ROUTES TO SCHOOL AND BIKE/PEDESTRIAN EDUCATION PROGRAM

1. Report from City Manager SEPT13-04-483 W1, W5 & W6
2. Resolution No. 19933 relating to Intergovernmental Agreements; authorizing and approving the execution of an Intergovernmental Agreement between Pima County and the City of Tucson for Safe Routes to School & Bike/Pedestrian Education Program; and declaring an emergency.

B. AGREEMENTS: FINANCIAL PARTICIPATION AGREEMENTS WITH THE TUCSON COMMUNITY CABLE CORPORATION AND EL CENTRO CULTURAL DE LAS AMERICAS AND INTERGOVERNMENTAL AGREEMENT WITH PIMA COUNTY

1. Report from City Manager SEPT13-04-481 CITY-WIDE
2. Resolution No. 19934 relating to Outside Agency Activities; authorizing and approving the Financial Participation Agreements and an Intergovernmental Agreement between the City of Tucson and various outside organizations for fiscal year 2005; and declaring an emergency.

C. MEMORIAL: URGING THE ARIZONA STATE LEGISLATURE TO ADOPT LEGISLATION MAKING THE FAILURE TO UTILIZE SEAT BELTS A PRIMARY OFFENSE

1. Report from City Manager SEPT13-04-489 CITY-WIDE
2. A Memorial relating to mandatory safety belt usage; urging the Arizona State Legislature to adopt legislation making the failure to utilize seat belts a primary offense, and urging the Governor to sign the same into law.

Item C was continued to the meeting of September 20, 2004, at the request of staff.

D. GRANT: ACCEPTANCE OF GRANT FUNDS FROM THE GOVERNOR'S OFFICE OF HIGHWAY SAFETY FOR IMPAIRED DRIVER ENFORCEMENT EQUIPMENT

1. Report from City Manager SEPT13-04-490 CITY-WIDE
2. Resolution No. 19935 relating to law enforcement; approving and authorizing the execution of a Grant Contract with the Governor's Office of Highway Safety for funding the purchase of impaired driver enforcement equipment; and declaring an emergency.

E. RIO NUEVO: ACQUISITION OF PROPERTY ALONG THE WEST SIDE OF GRANADA, SOUTH OF CONGRESS FOR THE CIVIC PLAZA DEVELOPMENT

1. Report from City Manager SEPT13-04-491(2) W6
2. Resolution No. 19936 relating to real property; authorizing the City Manager to acquire by negotiation, and the City Attorney to condemn if necessary, certain real property located in the vicinity of Granada Avenue south of Congress for the Civic Plaza Development; and declaring an emergency.

Item E was continued to a later date, at the request of staff.

F. FINANCE: CONTINGENCY FUND TRANSFER FOR THE FIRST ANNUAL 5-NEIGHBORHOOD CRIME PREVENTION BLOCK PARTY

1. Report from City Manager SEPT13-04-480 W3
2. Resolution No. 19937 relating to finance; approving and authorizing the transfer of five hundred dollars (\$500.00) from the Contingency Fund to Organization 001-183-1838-268, the Dodge Flower Neighborhood Association, for the first annual 5-neighborhood Crime Prevention Block Party; and declaring an emergency.

G. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH O.T. ADOBE L.L.C. (CONTINUED FROM MEETING OF SEPTEMBER 7, 2004)

1. Report from City Manager SEPT13-04-495 OUTSIDE CITY
2. Resolution No. 19923 relating to annexations; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and O.T. Adobe L.L.C.; and declaring an emergency.

Item G was continued to a later date at the request of staff.

H. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH FIDELITY NATIONAL TITLE AGENCY, INC. (CONTINUED FROM MEETING OF SEPTEMBER 7, 2004)

1. Report from City Manager SEPT13-04-496 OUTSIDE CITY
2. Resolution No. 19929 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and Fidelity National Title Agency, Inc., an Arizona Corporation, as Trustee under Trust Nos. 60,070 and 60,071 (Sycamore Canyon); and declaring an emergency.

Item H was continued to a later date at the request of staff.

I. PRE-ANNEXATION AND DEVELOPMENT AGREEMENTS: WITH THE NEW TUCSON UNIT 2 HOMEOWNERS ASSOCIATION, INC., NEW TUCSON UNIT 5 HOMEOWNERS ASSOCIATION, INC., AND NEW TUCSON UNIT 8 HOMEOWNERS ASSOCIATION, INC. (CONTINUED FROM MEETING OF SEPTEMBER 7, 2004)

1. Report from City Manager SEPT13-04-497 OUTSIDE CITY
2. Resolution No. 19926 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 2 Homeowners Association, Inc.; and declaring an emergency.
3. Resolution No. 19927 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 5 Homeowners Association, Inc.; and declaring an emergency.
4. Resolution No. 19928 relating to annexation; authorizing and approving the execution of a pre-annexation and development agreement between the City of Tucson and the New Tucson Unit 8 Homeowners Association, Inc.; and declaring an emergency.

Item I was continued to a later date at the request of staff.

J. REAL PROPERTY: EXCHANGE OF VACANT PARCEL SOUTH OF ST. MARY'S ROAD, EAST SIDE OF INTERSTATE 10 FRONTAGE ROAD

1. Report from City Manager SEPT13-04-498(2) CITY-WIDE
2. Ordinance No. 10038 relating to real property; vacating and declaring certain city owned real property in the vicinity of St. Mary's Road and Interstate 10 to be surplus, and authorizing the exchange thereof to First

Family Company, LTD, a California limited partnership; and declaring an emergency.

Mayor Walkup called on Council Member West.

It was moved by Council Member West, duly seconded, that Consent Agenda Items A through J, with the exception of Items C, E, G, H, and I, which would be continued to a later date, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was any discussion. There was none.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott and Leal;
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Consent agenda Items A through J, with the exception of Items C, E, G, H, and I, were declared passed and adopted by a roll call vote of 7 to 0.

7. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. He had received a number of requests to speak and speakers would be limited to three-minute presentations.

- a. Michael Toney, presented corrections to his petition submitted to the Mayor and Council on September 7, 2004, requesting an investigation of the University of Arizona's selection of an architect for the Science Center.
- b. Richard Fisher, presented proposals for improvements to the Tucson Natural Corridor and the "A" Mountain Park, and support for a roadside barrier.
- c. Shane P. May, spoke in opposition to pre-annexation agreements.
- d. Robert Suhocki, spoke in opposition to pre-annexation agreements.
- e. Jeanette Solinski, spoke in opposition to pre-annexation agreements.
- f. Michael E. Hill, spoke in opposition to pre-annexation agreements.
- g. Sandra Whitehouse, representing the Santa Rita Foothills Community Association, spoke in opposition to pre-annexation agreements.
- h. Bernhard Laubli, spoke in opposition to pre-annexation agreements.

- i. Patrick Kuvik, spoke in opposition to pre-annexation agreements.
- j. Stan Steuri, spoke in support of water conservation.
- k. Pete Tescione, spoke in opposition to pre-annexation agreements.

RECESS: 6:45 p.m.

Mayor Walkup announced the Council would stand at recess for five minutes.

RECONVENE: 7:05 p.m.

Mayor Walkup called the meeting to order and upon roll call, those present and absent were:

Present:

José J. Ibarra	Council Member Ward 1
Carol W. West	Council Member Ward 2
Kathleen Dunbar	Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Steve Leal	Council Member Ward 5
Fred Ronstadt	Vice Mayor, Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused: None

8. PUBLIC HEARING: COST OF SERVICE – PROPOSED DEVELOPMENT IMPACT FEES FOR ROADS AND PARKS

Mayor Walkup announced City Manager's communication number 493, dated September 13, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a Public Hearing on proposed development impact fees for roads and parks. He asked for staff's presentation.

James Keene, City Manager, said they would try to zip through slides. He could not pair them down to five or six, but staff would rush through four or five and linger over four or five. It would take about five minutes.

Albert Elias, Urban Planning and Design Director, said they would give a brief overview of the proposed road development impact fee ordinance, and cover a couple of key points. The single question most people asked was, what was the fee. He wanted to be sure to cover this. The City Manager's recommendation was for a two-dollar and fifteen cent per square foot fee for residential use. This would apply to single family residential, as well as multi-family residential. Their study of the permits within the City of Tucson for the last year indicated the median average household size was one thousand six hundred and fifty six square feet. That was single family only. That would yield a

median fee of three thousand five hundred and sixty dollars. Half of the fees would be more than that and half of the fees would be less than that. This was very equivalent to fees charged in other jurisdictions, including Pima County.

With respect to how the residential fee would go into effect, Mr. Elias said back in April they had a Notice of Intent to adopt the fee. The proposed ordinance had an effective date of January 15, 2005. Between January 15, 2005 and July 15, 2005, there would be no fee. Between July 15, 2005 and January 15, 2006, there would be a fifty percent fee charged. After January 15, 2006, one hundred percent of the fee would be charged to all the residential permits. Looking quickly at residential fees, they were recommending a range of fees in three different categories: retail, office and industrial. The range of fees was shown and would cover the first nine years of the ordinance. With regard to phasing in the non-residential fees, it was proposed there be no fee for the first three years of the ordinance. Years four through nine, fifty percent of the full fee would be recommended. Year ten and beyond, the full fee would be in effect.

Mr. Elias pointed out that after year three, there would be an annual cost of living adjustment that would be capped at no more than five percent, based on the construction cost index contained in the engineering record document.

Mr. Elias pointed to a graph showing a comparison of the fee structure currently in place in other jurisdictions. They recognized there is a concern about the City of Tucson's potential fees compared to other jurisdictions. By looking at the graph, the council could see a range of fees in the categories of single family, retail, office and industrial, in the other jurisdictions. It was important to point out that beyond the development impact fee, some of the other municipalities also chose to earmark part of their sales tax revenue for road development. In addition to impact fees, they also had sales tax available for road development purposes.

Mr. Elias showed there are five proposed benefit districts covering all of the City of Tucson. The central district would have a twenty three percent reduction in the fee. The remaining areas of the city would pay the full fee. The twenty three percent reduction was based on data that found in that area of the city there tends to be shorter and fewer trips because of the availability of other modes of transportation, such as people using the bus, walking, or biking. That was the basis for the twenty three percent reduction in the central benefit district.

Mr. Elias noted in the benefit districts map, there was a south-lands and a southeast area. It was recognized that these two areas of the community were fundamentally different and most of the new growth would occur here during the short-term future. Much of this land, owned by the State Land Department, was going to have different challenges due to little infrastructure in those areas. There were provisions in the proposed ordinance that would allow for a different methodology to calculate impact fees and calculate ways to pay for infrastructure in these particular areas. Because the *Tucson General Plan* recommends these areas be developed as master-planned communities, they have recommended a five hundred acre threshold. During this time

they could propose an alternative funding methodology that would be implemented through a development agreement. Each development agreement would have to be approved by the Mayor and Council, and be designed to create a funding mechanism for new infrastructure in those areas. One provision in the ordinance was the development agreements would provide for infrastructure funding that would be in excess of the minimum amount recommended by the City Manager.

Mr. Elias also wanted to touch on redevelopment. This was an important notion in much of the city, where the fee would apply, and be available to have this twenty three percent reduction in the central area. He said provisions were also made in the ordinance to reduce the fee or have no fee, if there was a change of use but no expansion of the square footage. Credit would also be given for existing previous uses if they had an existing building on the property and the opportunity to replace that structure. A fee would only be paid for any increment of the square footage that was an expansion beyond the existing square footage. He said staff believed that for much of the developed part of the city, there would be no impact fee in those kinds of situations.

Mr. Elias wanted to touch a little bit on offsets and credits. This was an area where a lot of discussions had been held among the stakeholders, many of whom were at the meeting. He pointed out there was a provision for public funding that would effectively reduce the amount of the impact fee, based on the percentage of the project that was funded by public funds. For example, if projects were funded with fifty percent of public funds, there would be a fifty percent reduction in the impact fee. They also established that offsets would be allowed. Those were situations where a developer chooses to build roadway capacity improvements and the costs of those improvements are then offset against the fee the developer would pay. Often times, this would effectively reduce the fee they would pay in exchange for actually building the improvements today, as opposed to waiting until the fees were programmed at a later date. He also pointed out there was a provision in the ordinance that would allow for sidewalks, bike lanes, drainage, landscaping, multi-use trails, to be included for expenditures with impact fees, as well as offsets, if those expenditures were done in conjunction with a roadway capacity improvement.

Mr. Elias covered the basic planning parameter the proposed ordinance establishes. This was the *Major Streets and Routes Plan* that identified the major arterial streets in the community, both existing and future ones. One of the provisions in the ordinance was the *Major Streets and Routes Plan* be updated every year, since it would now be linked to the programming of impact fee revenues. They thought it was appropriate to update it annually. They are also prepared to allow for offsets and improvements when they have an extension of an existing major road the staff felt would be an appropriate addition to the *Major Streets and Routes Plan* during the annual update. These were key points with regard to the ordinance.

Mr. Elias concluded his presentation by pointing out there was a substantive public interaction process with a number of stakeholders that resulted in the recommended ordinance. They thought the process allowed for the examination of many

key issues that were covered at the meeting. Mr. Elias said they were available to answer any questions. Their consultant team from Duncan and Associates was also available to answer questions, as were other staff members, including the Director of Transportation.

James Keene, City Manager, restated that at the study session earlier, the Council's direction was to hear from the public at this meeting and that they schedule another Study Session next Monday as a prelude to an ordinance being placed on the Council Agenda of September 27, 2004 for action.

Mayor Walkup announced the Public Hearing was scheduled to last no more than one hour and speakers would be limited to five-minute presentations. He said he had received a number of requests to speak and asked speakers to condense their remarks to less than five minutes. He called on the first speaker.

Paul Mackey, said as a member of the Stakeholders Committee and the Cost of Growth Committee that preceded that, he thought the ordinance in many respects had come a long way since they looked at the initial draft. On the other hand, he thought there were a number of things that were now being proposed that represented a trend in a direction he would have serious reservations about.

Mr. Mackey sent an email to members of the Mayor and Council late the other night. Like all things done late at night, he left out one thing. He wanted to speak in support of the proposed fee schedule by the consultant, Duncan and Associates. In the ordinance, where it showed the commercial area, there were three schedules; the one by Duncan and Associates, the one by the commercial group, and the one proposed by the City Manager. He said he was speaking in support of the fee schedule proposed by Duncan and Associates. The key question for him was they had a credible and effective ordinance that did something that made some sort of a fiscal impact. There had been a lot of talk about having to make a start, but they should not make it a timid start. It should be a real start that would actually accomplish something and not something simply on the books so they could have a warm feeling that says they passed the impact fees. They had to have a fee that was meaningful.

Mr. Mackey said there had been a lot of talk about lowering the fees, stretching them out, parity with the County, and so forth. He did not think they should be moving in the direction of lowering the fees to match the County. Although, as the council could see, the residential fees were coming very close. Just the other day in the newspaper, he thought it was funny that on the transient occupancy tax the County's people, Huckelberry and Chairperson Bronson, were talking about boosting it up to obtain parity with the City. He thought that was what the City should be looking at, having a fee level and asking the County to move up. County fees in the eyes of many people at the present time were artificially low and not doing the job. The result was that they wind up paying higher property taxes, they had bond issues for things like sewer fees in the County. These were things that should be covered to a greater degree by a County impact fee. They should work with the County to boost fees, not shortchange the City and drive the fees downward.

Mr. Mackey wanted to briefly touch on a few other things, some were in the memo, and some went over everything like that. He wanted to talk about the phasing schedule. There was the proposal out there to stretch the phasing schedule for the nonresidential over ten years. Everyone understood the fact that a new fee represents an added cost that had to be calculated. But stretching it out over ten years was simply too long. There was absolutely no need for that. He did not know why they stretched things out over ten years. They were already into a phasing schedule by only taking steps for a road and possibly a park fee. They were not running the full range of fees, that could be police, fire, libraries, even solid waste. Some communities were even paying for some of the solid waste things, like containers, trucks and so forth with impact fees. In effect, they already had a phase schedule in place at the present time. He said he did not know when they were going to see a schedule for those other items. They had not heard anything from the City Manager on that aspect, even though he was sure he had something in mind, but it had not been revealed. He did not know how long that would be stretched out. In effect, there was phasing on the roads and they were limiting themselves to major arterials. So, to have phasing on the components and then adding phasing on the fees was simply stretching it out too long. It did not produce the revenue that was needed to make the real impact.

Mr. Mackey also wanted to touch on the park fee, because that was something that was important at this stage. There were specific issues that had come up in the discussions. They were aware of them, particularly as they applied to homeowner's associations. He thought some of the specific things could be thrashed out in the next two weeks by a group that was specifically involved with that aspect of it. The larger issue was whether or not parks should be involved; the City with neighborhood parks and the smaller parks. A lot of that discussion was not appropriate for the stakeholders to try to work out. That was a City policy decision and he thought a different group should be involved. Stakeholders yes. But he thought it had to be a different group, not just simply developers themselves. A lot of it was internal policy positions. That could take a long time, or it could simply take a phone call from the City Manager to resolve it. There were several ways to go. Do they want a big discussion, or do you want to take action. He urged action at the present time.

Finally, Mr. Mackey said there was the question of fees in the central district or non-fees. He wanted to speak to that, because he was the one that brought that up at the stakeholders meeting. It seemed to him that if the City was actually going to have some sort of a focus to target policy to revitalize the City, then they need to look at the fees in that central area. If that was too broad (inaudible), they should at least have some targeted areas where they could do things. If the fees are not an incentive, they should not be a disincentive in a hurdle to do things. It seemed incomprehensible to him how there could be an impact fee specifically for something like Rio Nuevo. How could they be spending money to do things and then at the same time put a major hurdle in the way of anyone trying to do something in the private sector of Rio Nuevo.

Bob Cook, said he was also a member of the Cost of Growth Task Force of three years ago and the stakeholders group. He commended City staff for their persistence in the last three years in bringing these issues forward, since the voters of Tucson ratified the Smarter Amendments to the *Tucson General Plan*. Contrary to the unfortunate characterization of impact fees by the leadership of the business community in Tucson, impact fees were not unnecessary costs slapped on by tax and spend bureaucrats. Impact fees were cost recovery mechanisms, one of the few cost recovery mechanisms that were available to municipalities to recover the capital cost of extending the public infrastructure into new development. It was a very simple notion. They were not costs that were added on. These were ways of paying for the costs that were already incurred by development itself. The Council needed to understand that. To the degree that those costs were not being recovered, private development was being subsidized. He said it was a very important issue.

Mr. Cook reiterated Mr. Mackey's comments, agreeing that this was a good step and they had to move forward as quickly as possible on all impact areas. He encouraged the Council to move forward in the next two weeks to do as much as they could to get the process rolling and to get this impact fee established. There were many other concerns they had, as they moved through the next two weeks and into the next five years. Part of the ordinance was a major review in the end of five years to re-conceptualize whether an impact fee program was really working or not, and to make adjustments to it to the extent that it was not. Cost recovery for new development was the key to successfully financing a sustainable future for Tucson. He said the Mayor and Council had to understand that and the impact fee would not solve all the City's problems. The other key piece would be a regional transportation plan that provides for multi-modal transportation throughout the region and would be based upon an equitable tax mechanism. Those two things were the keys to Tucson's future. The City needed to make sure the impact fee part of it worked. As Council Member Leal mentioned in study session, he said there really was a link between the successfulness or the perception of how they moved forward on this impact fee program and the way the public was going to perceive any sort of tax election for a regional transportation plan. Those in central Tucson were prepared to vigorously fight against any regional transportation plan that did not accommodate the multi-modal needs of central Tucson. A year ago in the transit election, the majority of voters in central Tucson voted to tax themselves a third of a cent sales tax to fund multi-modal transit improvements in the central area.

Mr. Cook said there were a couple of concerns with the current ordinance that he wanted to address. One was the five percent cap on the cross construction index and delaying the implementation of the index to the calculation. Construction costs would go up like they did in the last year. Steel, concrete, wood, all those things have more than doubled in cost. What the City was saying by having this cap was the public was going to absorb those cost increases, thereby increasing the subsidies to private development. That did not really work and there was no reason to have that cap. Construction should pay for itself and the market should determine what the cost of housing would be.

Mr. Cook said he wanted to look at the map issue and talk about the central area issue. He agrees they ought to re-conceptualize enlarging the central area and also talk about an increase in the reduction of the impact fee for that area. It is the one district in the City of Tucson that was very interested in funding a more sophisticated public transit system. The fixed percentage of twenty three percent was based on past history, but the ordinance did not anticipate the fact that behavior was going to change in the next ten years, if the City got a better system. He thought the City should incentivize the redevelopment aspect of the central area. There would really not be much of an impact fee collected in the central area. He felt the redevelopment aspects of reducing the disincentive with a high impact fee in the central area would be worth considering. The central area was where the major transit corridors were. Broadway and South Sixth Avenue had the highest passenger rate of transit participation. Those areas should be incentivized for redevelopment. If they were talking about helping affordable housing, it was not to maintain the subsidy of new development on the periphery. Attracting affordable housing means they build up the City's public transit infrastructure and make available affordable housing opportunities near those transit corridors.

Raul Nido, said he had been the principal of Sunnyside High School for the last fifteen years. He would be remiss to come before the Mayor and Council and talk about impact fees and say that he was knowledgeable about what was going on there. He was before the Mayor and Council because he hoped that if and when the ordinance was passed, the Council would revisit the School Plus Jobs strategy for families. He hoped that if approved, funds would be available for families on the south-side of Tucson and throughout the City of Tucson. They had this particular strategy in place for the last seven years where it made a difference for young people. It was an investment. Mr. Nido said he knew they had to have an infrastructure, there was no question about it. They had to have roads and they needed sidewalks. They had to look into the consideration of advocating for their families and that was his role. He had been doing it for the last fifteen years. He urged the Mayor and Council to consider the funding. It was just a little drop in the bucket, compared to everything else. He said it was amazing what this little drop in the bucket had done for the young people in the south side of Tucson at Sunnyside High School.

Mary Ann Leon, said she was a parent of two students at Desert View High School. She was also the coordinator for School Plus Jobs at Desert View High School. Last year she got over one hundred fifty applications. She passed them out for two days during the lunch break and she received back one hundred fifty applications. Out of those students, she knew that about eighty percent were free and reduced lunch meals, because that was how she determined to see if they needed to be put on the program. She knew there was a need out there. She was just there to see if they could get the funding back for the School Plus Jobs Program.

John Holloway, said he was there to speak about impact fees. He said there were certain areas that were already built up. If there was a lot and this lot had never been developed. Everybody else was there and the roads would be in and everyone would have their own septic tanks. He thought that there should be a mechanism set-aside for retirees

and people that had everything there. Another thing he did not understand was if someone was replacing a mobile home or something, most people who would buy a mobile home could not afford a stick building.

Deb Turner, Chairperson of the Small Business Commission in Tucson, said they sent the Mayor and Council a letter on their position on the impact fee. She reiterated their position and read that letter to the Council, in case they had not seen it, so they would understand the commission's position.

“Dear Honorable Mayor and Members of the Council: The proposed impact fee ordinance was brought to the attention of the Small Business Commission by several industry groups that had been reviewing this ordinance and would quite possibly have a direct affect on the business community. On August 24, 2004, the SBC placed this item on the agenda. As a result, the SBC heard presentations from Gary Oaks, City of Tucson; Matt Dickey, Bourn Properties, representing the commercial impact fee study group; and the Tucson Metropolitan Chamber of Commerce regarding positions and recommendations on proposed impact fees.”

“After a lengthy question and answer period, and discussion, the SBC recommends the Mayor and Council's consideration of the proposed impact fee ordinance be postponed until the affects and responsibilities of the Regional Transportation Authority are detailed, thereby eliminating any duplication of fees and taxes to small businesses. This issue will need to be addressed if the proposed changes to the ordinance are implemented. Continued burdens placed on businesses will definitely affect the Tucson community as a whole. Thank you”

Levi Jackson, Manager of Governmental Affairs with the Tucson Chamber of Commerce. He was there to speak on behalf of the Chamber. The Tucson Metropolitan Chamber of Commerce respectfully requested that the Mayor and Council delay the city's road impact fee proposal. The Chamber believed this issue to be premature and in need of a comprehensive plan before implementation. Even at this late hour, Mr. Jackson said there were many unanswered questions from the selected body; questions such as service areas, exemptions, carve outs, administrative costs, and so on. He quoted a phrase from the afternoon's Study Session, “this proposed impact fee ordinance is not a shiny dog”.

Mr. Jackson added that everyone was continuously talking about the rewards and benefits of impact fees. However, the Chamber had heard very few government leaders take the initiative to publicly discuss the negative consequences that would come from this. He proceeded to name a few, by stating that according to a recent study by the National Association of Homebuilders, impact fees drive up the cost of living, threaten affordable housing and stunt economic development efforts. Current salaries and business earnings would not be able to match the rise in the cost of living generated from these fees. The Duncan report's methodology had been called into question in several stakeholders meetings as to its accuracy. None the less, he said that even if the numbers were correct in portraying the monies necessary to fix today's transportation problems, it

did not take into consideration how economically deprived our community already was, and how our community was unable to pay for these additional fees.

Mr. Jackson commented on statements he recently heard regarding the Chamber's position and how the Chamber was being irresponsible in its action. Based on the belief that everyone else in the state was doing this, therefore Tucson should also. This kind of reasoning is what was irresponsible. He asked if the City had forgotten that Pima County already had the highest tax burden in the state. The implementation of these transportation impact fees would also open the door for other impact fees, specifically parks, police, fire and libraries, as already mentioned. This would mean more taxes. He asked the Council when it would stop.

After listening to the afternoon's Study Session, Mr. Jackson said it sounded as if each Council Member had their own opinion regarding the impact fee ordinance. He said this was fine. The Chamber believed that everyone was entitled to their own opinion, but they were not entitled to their own facts. The Chamber would like to see the Mayor and Council draft a comprehensive package addressing annexation, regional transportation, surface street improvements, and a reasonable tax plan to fund these priorities, rather than a murky impact fee plan. This needed to be done right. It did not need to be done perfectly, but right. He thanked the Council for their time and attention.

Tanya Wheelless, President of the Arizona Banker's Association, said she was there to speak on behalf of the banks in Arizona, as well as in Tucson. She thanked City staff for conducting stakeholder meetings and allowing them to have a voice in the process. When they first reviewed the original Duncan proposals, they had not had the opportunity for any input and they appreciated that over the last couple of months. She was there to support the proposal that had been put forward by the City Manager's Office. They believed the fees were reasonable and fair. They did not support the Duncan numbers that were originally proposed. She said she would be happy to answer any questions.

Mara Kelly, representing the International Council of Shopping Centers at the State level. Like Ms. Wheelless, she thanked the Council for allowing them to participate. They were primarily dealing with Mr. Dickey of Bourn Partners. They also supported the current version, in particular, delaying any fees for three years and phasing in for the rest. She said she would defer the rest of her time to the other commercial stakeholders.

Kathleen Longnecker, Executive Director of the Metropolitan Pima Alliance, thanked the Council for the opportunity to stand before them and affording the Metropolitan Pima Alliance the opportunity to participate in numerous meetings over the course of the last six months. Originally, she was really excited she was going to be able to get up and say they supported the stakeholders ordinance the way it was presented to Mayor and Council, but unfortunately she could not support the ordinance that was put forward by the City Manager's Office. Although they appreciated many of the things that were given to the commercial stakeholders and that group that she also participated in. The Metropolitan Pima Alliance had many members that were in the residential

homebuilding industry and they did not feel that their interests were being represented adequately.

Ms. Longnecker said they had fears about how it would impact affordable housing in the community and wanted to go over a couple of those fears. They did not believe the ordinance in its current form provides protection for residential projects in the pipeline, as was included in the stakeholders ordinance. They would like some clarification regarding extensions of existing arterials or section line roads, whether or not they were or were not impact fee credit eligible. They did not feel that the Mayor and Council could adopt this ordinance without updating the *Major Streets and Routes Plan*. They thought it was ridiculous for the City to say they would do it when they implement it. She said she spoke with several of her board members.

Ms. Longnecker said that as much as they liked Albert Elias, they did not understand how one man could be given the authority to decide whether or not there were sections of the road that were impact fee eligible. If she were Albert Elias, she would not want that responsibility. He would be like the Czar of impact fees. She did not feel that was a fair position to put him in. The City Manager's draft ordinance did not have credits or off site exaction's that had been negotiated in good faith, things that had already been done in the community, such as widening of roads, additional sidewalks, things developers had done now in good faith. The City was now saying that six months down the road they were going to pay impact fees on top of those exaction's. She said they did not feel that was a fair thing to do.

The phase in for residential impact fees of six months with no fee, followed by six months of a fifty-percent fee, did not work for homebuilders with current projects. That was the bottom line; it just did not work. If building permits were not pulled by January 2006, when the one hundred percent fee kicked in, they would just be paying the one hundred percent fee, regardless of the (inaudible), regardless of the market, regardless of what they were doing. She asked who would then pay the fee. If this were a test, the Council Members would all get that answer right. The homeowners would pay the fee, which would drive up the market even more. She met with all the Council Members individually or on the phone and knew that was not what they wanted. They wanted to let the Council know what they were asking for was expansion of the impact fee credit eligible projects, giving credits and offsets for negotiated exaction's and expansion of the residential phasing period. They really would like to provide protection for projects in the pipeline.

Ms. Longnecker had been told there was the perception in this community that the developers were just trying to hold on to their wallets. They wanted to keep their money in their pocket. That was not the case. They were willing, as were those developers and builders they had as members of Metropolitan Pima Alliance, which also had several business and commercial members. They had no problem paying for growth or contributing to growth, contributing to Tucson's investment in growth. But they wanted to do it in a fair way that did not harm the industry, did not harm the homeowners, and

did not harm economic development. She urged the Council to take another look at the residential portion of this ordinance.

Patricia Richardson, representing the Tucson Association of Realtors thanked the City staff for the opportunity to work with them. The meetings at 7:30 a.m. were very exciting. This was not as exciting as the Sonoran Desert Conservation Steering Plan, which went on for five plus years, so she thanked the Council for making it a shorter time period. They worked very hard with all of the different stakeholder groups, both commercial and residential. They tried to work with the parks people and the people that were interested in parks, in trying to come up with some solutions on what needed to be done in the community. Fundamentally, the Tucson Association of Realtors did not support impact fees. However, they recognized the need in this community to do some capital improvements. Their communication to the Council on Wednesday of last week was supporting the stakeholders' draft that was presented. She said she went away for two days and a lot changed. She had the opportunity to read the City Manager's draft. They wholeheartedly support the proposal for the commercial industry, and echo all the comments made by Ms. Longnecker regarding the residential industry. She said it was just not there yet. They needed to support what that industry would present to the Council, because they knew how the market would bear it. One of the most important things to remember was if the market could not bear the impact fee, it would not make any difference what it was, because they would not be able to collect it anyway. That was something very important to keep in mind.

Ms. Richardson said one thing she noticed in the draft that had been an important point from the realtors was there needed to be a waiver process for those individual people who were trying to build one house or put their mobile home on a lot that they own. She said it would truly be a hardship for them. The County's waiver process was very simple and had not been abused by anyone, so she thought the Council seriously needed to look at that waiver process for those people who would suffer because of this.

With respect to the parks being pulled off the dockets Ms. Richardson said they hoped the Council did that at the meeting. They want to negotiate what was going on with the park's fee. There were a lot of questions about what really was a park. Who uses the neighborhood park versus who uses a regional park. What the size of that neighborhood park should be before the City should accept it. There were just a lot of questions. This was not a request to put it off indefinitely. It was a request to put it off to form a group that could look at this. One that had the interest at heart of what the park needs were, along with a new park's director and the direction from that department. At that point in time, then she thought the Council would find a much better presentation. A much better ordinance coming before the Council that everyone could support. She thought it would be much better if they could work behind the scenes to get this done, before they got to the point where they were at these public hearings, so they could all go home at a reasonable hour.

Ron Ruziska, Director of Asset Management for the State Land Department including the planning and engineering sections. They had the opportunity in recent

weeks to discuss with City staff, issues of common interest. The Commissioner asked him to extend to staff their gratitude for allowing them to participate in the discussions relative to this ordinance, and to allow the time that was necessary to put it in the condition it was in at the present time. He knew the Commissioner had contacted each and every one of the Council Members to support the stakeholders recommended ordinance. They were certainly prepared to accept the ordinance as submitted by Mr. Keene and his staff. They appreciated the opportunity to be part of that and they hoped in the future to be part of further discussions with the City, considering the State had an excess of one hundred thousand acres yet to be annexed and yet to be developed. They hoped to be part of discussions involving water issues, annexations, impact fees, and other types of this nature as the city grew. They were really looking forward to working with City staff.

There was one thing Mr. Ruziska wanted the Council to consider prior to adoption of the ordinance. He did not have the chance to talk to the staff about this, as he had been up north and did not have a chance to meet with them. Relative to the extension of time for the residential uses, it had been their experience in developing in other parts of the state that the investment decisions relative to commercial and residential were not that different in nature. To have such a disparity between the residential and the commercial time extensions seemed a bit inequitable. They were not suggesting any specific time frame, but they were asking the Council to consider something that might be a little more equitable between the two, before they took their final vote.

Mary Grier, representing the State Land Department. She was from the Attorney General's Office, so she was a paid representative. She wanted to echo the thanks to Albert Elias and his staff for their very collaborative process they worked through and devoted a great deal of effort to. She said the Council Members all received a letter from the State Land Commissioner supporting the stakeholders draft, which in reality was a red lined version of the City Manager's draft, proposing specific changes in language. Much of the content they were seeking accommodation on had been incorporated in the City Manager's draft and they were very appreciative. She spoke of the inclusion of benefit districts, the five-year review provision and direction to update the *Major Streets and Routes Plan* annually. She applauded the Council for doing all of that.

Ms. Grier said she wanted to make comments in four areas. On the process, the stakeholders and staff all devoted a lot of time and effort, which would not have been possible were it not for a decision to allow additional time for the parks ordinance to be considered. They appreciated the opportunity to spend that time. They were prepared to spend equivalent time on the park's ordinance to get a comparable impact fee for parks. But in this area the devils in the details, and they were very concerned about institutionalizing something that did not work, that was hard to change. They would much prefer to spend the time they spent on the road impact fees on parks to get it done right, rather than to get something adopted and have it not work correctly.

Second, Ms. Grier stated that the State Land Department supported the adoption of the impact fee ordinances. They viewed these ordinances as an important financing

tool, one that was an array of tools, not the only tool, certainly not a panacea for development and cost of development. They wanted to make it clear that it was in their interest as a major landholder, as part of Tucson's future, to have the tools work properly and appropriately. To that end, they had some specific concerns that had not yet been addressed in the draft. She had some hope that over the next two weeks, that in communication with Mr. Elias and the City Attorney's Office, they would be able to resolve some of those concerns. But there were still some concerns, which she said she would bring up next.

The third thing Ms. Grier wanted to say was there were some principles at stake, when adopting an impact fee ordinance they wanted the Council to keep in mind. She said they thought the Council should take a principled approach. It was very important these fees be predictable, that they be accountable and they be equitable, so there was a level playing field and developers know what they could count on and what they could not count on. When they get to offsets, it would be important that the system be predictable and work appropriately. They thought it was also important that the Council incentivize the early construction of infrastructure by developers. That would be a real cost and a real benefit to the City. There were some provisions in the ordinance that did not allow the City to incentivize as much as the possible, because they put caps and limits on offsets they thought did not need to be there to protect the City.

On the fourth area, Ms. Grier said they thought it needed to be flexible and allow the City to take advantage of opportunities to incentivize developers to build the roads they want to have in those developing areas. The State Land Department was such a large landowner and had some legal constraints on what it could do. It could not give away land for example. It could not make dedications. It could not lien its property. These were all constitutional and federal law restrictions. They thought that limitations built into the ordinance in its present iteration might lead to some unintended consequences and deprive them and the City of the ability to incentivize infrastructure development appropriately. She said they would like to take a look at that again with City staff to try to work through some of those.

Ms. Grier then highlighted their specific concerns. There were provisions in the City Manager's draft to address most of their concerns. There was not a provision for the development of a separate impact fee for the two benefit areas that had the largest amount of land that was presently undeveloped and that did not have infrastructure. In order to have a level playing field, it might be necessary to look at adopting a higher fee, a different methodology of fee in those areas. That financing mechanism might be more important in the developing areas because of the State Land component than it was elsewhere. They were asking the Council look to the provisions in the stakeholders draft and consider including those. The other thing she wanted to comment on was the provisions on development agreements and master plan developments contain some limitations that might confine the Council's ability to be flexible and give them the tools they needed. The five hundred acre limitation as contrasted with the stakeholders' draft called for allowing separate arrangements if there was a PAD or if there was a development agreement with the city. That might create an impediment that would make

it hard for them to do what the State Land Department and the Council wanted to do, to develop the infrastructure in a planned way. They encouraged the Mayor and Council to give them the time to work with staff and try to work through some of those issues and make those changes.

Marc Simon, an attorney with Snell and Wilmer, said he had some comments on behalf of the Southern Arizona Home Builders Association. They were very appreciative of the hard work of staff and the City Attorney's Office on this ordinance. The ordinance presented to the Mayor and Council was much improved and they would like to support it. However, they did have some difficulties with it and they had some suggestions to make, aimed at fairness and equity in that regard. Their first concern went right to the heart of it and maybe a bit too bluntly so, but they felt the level of the fee should be reconsidered. They were not entirely comfortable at first with a per-square foot formula, but the City Manager's report was based upon that. It was apparent that staff had great faith in that and the concept was reasonable. But in their opinion, the fee should be reduced. He gave a specific number, from two dollars and fifteen cents per square foot to one dollar and seventy-four cents per square foot. Their latest figures on medium home size show a home of about one thousand eight hundred seventy-three square feet in the greater metropolitan area, including both the city and the surrounding area. At the median of one thousand eight hundred seventy-three square foot, the fee would be four thousand thirty dollars, assuming two dollars and fifteen cents per square foot. That was just for a medium size home, five hundred dollars more already than Pima County's fee. They should not forget that the city does in fact collect a construction sales tax of thousands of more dollars on each home built within the city.

Mr. Simon added that even if they were to take the smaller size they heard earlier, he assumed had something to do with affordable housing and inner cities, smaller homes of one thousand six hundred thirty-five square feet, at two dollars and fifteen cents per square foot they would be talking about three thousand five hundred dollars just for that relatively small size home. There were homes throughout the community double and triple that size that were paying less than that figure. At two thousand two hundred square feet, they would have a fee of four thousand seven hundred dollars and that was just for the home, and they knew they still had parks to come. He said that the Southern Arizona Home Builders Association took a very active and productive role on the adoption of the Pima County Park Ordinance. They felt it was a good one and Southern Arizona Home Builders Association would want an active and productive role in the adoption of the park ordinance when it comes before the Council for a City parks fee.

On the subject of roads alone, Mr. Simon said fees that approached five thousand dollars per home seemed to them to be excessive. Again, he gave the example of two thousand two hundred square feet at two dollars and fifteen cents per square foot. He said they should remember Oro Valley's flat fee was three thousand dollars, about one thousand dollars less than the median. That would be payable in the City of Tucson at two dollars and fifteen cents a square foot. Marana was at two thousand four hundred thirty-five dollars, about one thousand six hundred dollars less than the Tucson median at two dollars and fifteen cents per square foot. The Mayor and Council were shown a table

earlier that showed asterisks on it, indicating that Marana and Oro Valley had construction sales taxes. However, they could not overlook the fact that so did the City of Tucson. The building industry could not control how that money was to be used, and fortunately had no control over it being earmarked. But that did not negate the fact that this was what it cost to build a home in the City of Tucson. The construction sales tax must be paid. Whether it was earmarked was a separate issue. It was the cost of building a home.

Mr. Simon mentioned they tried to canvas other fees in other communities. They did not feel they could represent to the Council that fees in every community should be perfectly comparable. But just so that the Council knew, in fourteen benefit districts in the Phoenix area, the fees were in the seven hundred fifty dollar range. Fees were also nine hundred ninety-five dollars; one thousand three hundred sixty-nine dollars; two thousand one hundred seventy-six dollars; seven hundred fifty-four dollars; nine hundred ninety-five dollars; another one thousand three hundred sixty-nine dollars; and another at two thousand one hundred seventy-six dollars. The point was there was not one in the pack at four thousand dollars. Maybe there was in Paradise Valley, maybe there was in Peoria, but nothing approaching four thousand seven hundred dollars. He said everyone knew that in some of the Phoenix communities, there was a water fee in addition to a road fee, and there was a park's fee. But again, the City was talking about just a road fee here and they were in the four thousand dollar range very quickly for a moderately sized home. Mr. Simon suggested that the Mayor and Council reconsider the fee and see if it could be dropped down to something more reasonable.

Another issue, which Mr. Simon said should not be overlooked, was they spoke about Pima County's fee for the purposes of comparing. They should not forget that in Pima County there was a seventy-five percent rate applied to retirement housing and a seventy-five percent rate applied to higher density units of six units per acre or more. So it was not accurate to say that Pima County across the board was at three thousand five hundred dollars. Mr. Simon said he noticed his red light was on, but asked if he could have a few more minutes, since he represented the association.

Mr. Simon concluded his comments by stating that mathematical precision was really not possible with regard to the enactment of impact fees. They felt this was the Council's decision to make. It was the Council's call as to the fairness and reasonableness of these fees. The Duncan study, as other studies would, acknowledged that different approaches and methodologies exist. For example, should they consider existing roadway deficiencies. Should all roadway cost figures be adjusted for existing deficiencies prior to being included in the formula. Was the frequency data for the City of Tucson really perfectly comparable to national data. The ranges of one point two million dollars per lane mile to one point nine million dollars per lane mile – should there have been adjustments before those were keyed into the formula. He said experts could always differ and there was no mathematical precision. It was the Council's decision to adopt a fair and equitable fee. He wanted to incorporate Mary Grier's comments with regard to the State Land Department. There were some revisions and refinements they wanted to make to assure a smoother annexation; to assure proper credit to developers

who were putting major infrastructure in; and they felt they could do that in the coming days working with staff and the City Attorney's Office.

Mary Beth Savel, Lewis and Roca, said she was there as a representative of the Commercial Impact Fee Study Group. This was a group of commercial developers, realtors, salespersons, builders, as well as various groups participating with the study group from the Chamber of Commerce, the Metropolitan Pima Alliance, from various city agencies, economic development organizations and the like. She said she was going to defer a substantive discussion of the process of the Commercial Study Group to Don Bourn who was the head of the study group. She was there on merely a technical detail. As part of their work and study of the City of Tucson's commercial impact fee proposal, they spent quite a bit of time analyzing the impacts of commercial impact fees on the potential commercial development within the city, as well as outside of the city's boundaries. They looked at potential future annexations. They looked at current building rates. They looked at future building trends and they looked at the overall needs of the city from both the commercial and a residential perspective. They prepared a practical analysis of the commercial impact fees. That had been distributed staff and to each member of the Council for their own review. But just as a matter of record, she wanted to introduce it this evening, so it would be part of the record before the Mayor and Council. She said if the Council had any questions, she would be happy to answer them.

Don Bourn, said he appreciated all the time the Council had given them to discuss these fees. He said that initially, when they set up their Commercial Impact Fee Study Group, a number of people within the group asked why should the commercial sector pay fees at all. They built a Target Store at the intersection of Twenty Second and Harrison. That was actually reducing the amount of traffic and length of the trip, for most of those consumers. They were not driving to Broadway or Tanque Verde, or somewhere like that. After much discussion, he felt they all agreed that it was not only in their best interest, but also in the community's best interest, for them to try to embrace impact fees and figure out how they could come up with a solution that would work for everyone. They tried in earnest to do that. They had a number of discussions with the Council to try to find out what they thought was important for the city and they had a lot of discussions with staff as well.

Mr. Bourn said they had four goals. The first one was somewhat of a selfish goal. The goal was they did not want commercial developers to have significant economic hardships. They thought that was reasonable, since that was their livelihood and the livelihood of a lot of the people that were in their industry, and certainly people within their organizations.

Their second goal was to create an overall financial package for the city that maximized revenues and gave them the best opportunity to do that. Their feeling was that if they looked at impact fees simply on a standalone basis, they could be creating a situation that ultimately would reduce the overall revenue.

The third thing was to stimulate economic development. They had a lot of press recently about economic development, some of the challenges they faced. They realize they were in a very competitive environment. He said he always read about the international competition in real estate and it had recently happened to them. They found themselves competing with India for a new office building here in Tucson. He thought the City should remember they were in a very competitive environment and they just could not turn their backs to it.

The fourth thing was to develop a plan that was consistent with the City's overall goals. They spoke about that in Study Session. One of those was urban infill development. He thought that in putting together such a program, they did not think about that. They may again be counteracting some of the things they were trying to do. They also talked about annexation and using that for economic growth for the city and they could be doing something counterproductive in that area if they were not careful.

Mr. Bourn said they support the City Manager's ordinance as it related to commercial impact fees. They would allow the homebuilders and other people to discuss their specific areas, so they would not address that. They thought their discussions had been a matter of give and take. They felt they had been very productive. They felt the City Manager's proposal gave them a break up front, which they said was very important because of the time it takes for commercial developments. It puts a higher fee in the back end than they would probably want in relation to the economics of their projects. It was their feeling they could pro-corner that in. They could start working on those projects today that would be starting in three or four years. That would give them time to do that.

Mr. Bourn said the second point they talked about, the overall economics for the city was highly important. They did a study where they looked at sales taxes, rental taxes, construction taxes, and property taxes, all which were generated from commercial development. Generally in their findings, they thought it was probably over a ten-year period; at ten times the impact fee at a minimum; the fees that could be generated from all those other sources. They thought it was highly important to make sure that whatever they did does not jeopardize those other sources of income. They had two particular projects that if the original Duncan Study was implemented, would have very rapidly killed two projects. One of those projects would have generated twenty million dollars of sales taxes over the next year. The other project would have killed an office project, which would have employed three to four hundred people. Those were specific things they were looking at. Mr. Bourn said his time was up, but said that another thing it did was stimulate economic development. It provides a window to be competitive in annexation.

Pat Darcy, said he was on the Parks and Recreation Commission. He was also a member of the stakeholders committee. As they all knew, there was a major need for parks in the City of Tucson. They enhance the quality of life here. He gave an example and said that Council Member Scott would recognize this. He was coaching little league at Freedom Park a couple of years ago, which is at Twenty Ninth Street and Swan. He was getting ready for a game and a bunch of kids got out of some cars. He had not seen

them before. He began talking to their coach and asked where they were from. The coach responded that they were from Rita Ranch and they were trying to find a place to practice. Mr. Darcy reiterated they did need parks in Tucson. Lot sizes of homes were getting smaller and smaller, so neighborhoods need parks. It was very important. He said that when originally started, this ordinance was for parks and for roads. They started meeting in March, he believed, and meeting quite a bit. On July 14, 2004 parks were still on the ordinance. It came back for a meeting of July 27, 2004 and parks had been pulled off the ordinance. Mr. Darcy said that parks needed to go back on the ordinance.

Mr. Darcy noted that as mentioned earlier, there were some questions on parks. One of them was the size of parks. He personally would like to see the City take care of all parks. The Parks Department said they would take care of parks fifteen acres and larger. He said he would hate to see a time in Tucson where there would be a five or six acre park, where somebody wanted to play, and the neighbors would come out and say they could not play in the park, because it was their park. He really thought the neighbors needed to look at that. They came to kind of a resolution of five acres or more. The Parks Department would take care of parks five acres or more. He did not feel the developers should be taking care of the parks. It was the job of the Parks Department to do so. He would like to see parks put back in the ordinance now, instead of waiting until later. He did not know how much longer that was going to be. He would also like to see the Parks Department work more closely with the school districts to combine them to have parks throughout the city, where infill had already taken place and in the outlying areas too.

Roger Karber, said he was representing the Arizona Multi-Housing Association. He said he was an apartment developer. By his count, he thought he spent about thirty hours attending the stakeholders' committee meetings and he was there to tell the Council they were very contentious and even hostile at times. He thought it was only appropriate that he, along with the association, thank the members of staff, Gary Oaks, Andrew Singelakis, Albert Elias, and Mike McCrory for their effort in putting up with them. They were outnumbered twenty to one most times. The Arizona Multi-Housing Association last year initially had real concerns about the water impact fees. When they got into the study methodology and they got comfortable with the scientific approach that was taken, they became advocates and stepped forward and said this would hurt. They said they were going to pay these fees, but they saw no other way. It was the sensible thing to do as a community. They were not able to make the same kind of rousing endorsement of the renter's tax that was proposed, because they saw that as an inequity, asking renters to pay a tax that homeowners were not paying on their mortgages.

On the transportation impact fee though, after all of these efforts in reviewing the methodology and the mechanics, they were before the Council to tell them they were prepared to pay the fee. They thought it was a smart thing to do. They were tired of explaining why they had shabby infrastructure in the community and they were tired of being accused of not paying their fair share. They wanted to pay their fair share. They liked the fact that this fee evolved from a great deal of open dialogue and the fact that the premise was correct to start with. They liked the concept of totaling the arterials that

existed, dividing by the population and applying the cost. That was a fair way to ask developers to pay for each new development.

Mr. Karber said the Duncan research was very well done. He thanked Clancy Molan for the original work and then the efforts to make revisions as they provided additional information. They particularly felt strongly about the square footage fee, as opposed to a flat fee. They have made the argument again and again that it simply was not right to ask someone who lived in a very small home and was able to accommodate only one or two persons, not be asked to subsidize much larger houses that hold many more occupants. They thought the phasing mechanics were fair. It gave them time to absorb this new fee and plan it in their new projects. They also believed the offsets and credits method was a good one.

There were two things they wished could have been included. They thought there should be an all out exemption for affordable housing, housing that was targeted at fifty percent of median household income or eighty percent even. They still did not understand why they would not have a full exemption for the downtown area and probably the central city. All in all, they thought it was very important that at times they step up and compromise and he, along with the American Multi-Housing Association, was behind this and he encouraged the Mayor and Council to support it as well.

Frank Bangs, representing Diamond Ventures, said that Diamond Ventures participated in the stakeholders group. Like many of the other speakers, they wanted to take this opportunity to express their appreciation for the time and effort taken by staff, by the other stakeholders and by members of the Council, to try to understand the issues and also compromise them. They appreciated that very much. They came to this process with what they felt was a broad perspective. They developed both commercial and residential projects throughout the metropolitan area and in the City of Tucson. Recently, he said the company had been focusing its attention and interest on large master plan projects. Frequently, these projects were conceived and developed in areas that had very little or no existing infrastructure, including roads that were the subject of the ordinance being proposed. Consequently, they were primarily responsible for building that new infrastructure or cooperating directly with public agencies. That was their perspective, and those were their thoughts briefly on the recommendations before the Council.

Mr. Bangs said they had come a long way in this process from where they started. They were very close, but there were some issues that they needed to see before they could support staff's recommendations. What was right about it. They did support the City Manager's recommendations about commercial development. They wanted the Council to remember that it would take residential development, it would take rooftops to support viable commercial development. If the City intended to encourage commercial development, then the Council should avoid disincentives for residential development. Mr. Bangs said that if the Council wanted to know how, he gave three suggestions of additions to the ordinance they would like to see.

First, he said they supported the homebuilders' request that the fee for residential development be set at a dollar and seventy-four cents. He said this would create fee

levels effectively equal to those in other jurisdictions while retaining the square foot principle that underlies the staff recommendations. Second, they suggested that the residential phase-in period, which had been set at fifty percent for six months, be extended for twelve additional months for those projects that would build major transportation infrastructure, roadway improvements, as exaction, and where the costs of those improvements on a per unit basis would be at least fifty percent of the fee. Third, they welcomed staff's acknowledgement that the *Major Streets and Routes Plan* needed to be updated, particularly in those areas south of Interstate-10. They would have more comfort if they understood that the updating could occur before the ordinance becomes effective on January 15, 2005. Mr. Bangs said they would work with the City Manager and his staff on language in the ordinance to accomplish that. Finally, they support the recommendations of the State Land Department as to large master plan developments. He urged the Council not to take out the incentives proposed in the stakeholders draft that would encourage master developers to put in infrastructure up front so the public would not have to bear it.

Bill Fields, said he was there representing Little League Baseball. They were not there to support or not support impact fees. However they would like to see that Parks was placed along with this. He said he was sure each Council Member had constantly heard about the lack of fields and places for kids to play in every Ward. Little League currently had roughly fifteen thousand boys and girls, ages five to eighteen, who participate in Little League. It was critical that fields were not available to them out there. He said he was not there to represent soccer or youth football, but the Council might add another fifteen thousand for those two. With thirty thousand kids and their families, they were in serious need of fields to keep these kids busy.

Nickolas Seibel, said he was a constituent of Council Member Ibarra. He was a relatively new resident to the City of Tucson. Since he has been here, he had been extremely proud of everyone on the Council. He felt there had been some tremendously progressive decisions made by the Council, and some great things had been started as far as garbage fees. Things sometimes just had to be done and he thought on that list it included impact fees. By way of background, he wanted the Council to know that he formally served on the City Council where he resided previously, which was a considerably smaller community than Tucson. He knew a little bit about what it was to be in the Council's place. While he was on his Council, they explored the issue of impact fees, and frankly could not see why the Council would not do it here, particularly in a community that was growing in a way that Tucson was and had been for a long time.

Mr. Seibel said he heard some arguments at the meeting that the impact fees should be on parity with other governments in the area. He thought that when the Council establishes this impact fee, it should be based on the costs, the impacts of this development, and not on what other people were charging. The Council should look at what it would cost us as a community to do this and charge that.

Mr. Seibel said he also wanted to see more incentives for development in already developed areas, specifically in the central core. He thought that thirty three percent, or

so, was a great start. He could see that going all the way down to one hundred percent discount in certain areas, so that the city as a community could cause development to happen in places where they really wanted it to happen. The main reason he was at the meeting, and he swore he was not going to speak, was an article in the morning paper by their friends at the Metropolitan Chamber of Commerce. He did not summarize the article for them, because he felt it had already been adequately summarized for the Council at the meeting. But he said it kind of set his hair on end as he read that. They say that taxes in the community were already high enough and that another fee did not need to be tacked on top of that.

He said he never looked at the complete budget for this city and did not know completely what the tax structure was, but he could say with some certainty that one of the reasons why the taxes this year were so high was that this community was growing. As the City needed to extend water and sewer lines, and roads and parks, out into these new developments, someone needed to pay for that. If the people that are moving in out there are not paying for them, then the community, as a whole, would have to pay for them. He did not think it was fair to people who had grown up here and lived in this community for generations. He was not one of them, but there were many who had. But it was not fair for them to have to pay for that. For them to have to subsidize new residents to the community, many of whom were in much better financial shape than the people who were neighbors to this place.

Mr. Seibel said he was not telling the Council anything they did not already know, but it was something he hoped people out there would think about as this went forward. He thanked the Council for letting him speak.

Mayor Walkup asked for a motion to close the Public Hearing.

It was moved by Vice Mayor Ronstadt, duly seconded, to close the public hearing.

Council Member Ibarra asked that before the vote, if he would be able to make the suggestion that they not close the Public Hearing. He said it looked like there still could be some continuing dialogue between all the stakeholders and between City staff. He would hate to close the Public Hearing today and then on September 27, 2004 not allow them the opportunity to have some sort of say on what the final product would be. It did not seem like they were that close to the final product and that was his only suggestion. He said if they continued the Public Hearing, they could ensure there would always be a public dialogue up until September 27, 2004. Council Member Ibarra asked the Mayor if that was okay with him.

Mayor Walkup said he would have to check the legality of that. If they left the Public Hearing open could they pass the ordinance on September 27, 2004.

Michael Rankin, City Attorney, said the effect of continuing the Public Hearing would mean they would push out the fourteen-day requirement after the close of the

Public Hearing, before they could take action. That meant they would not be able to act on September 27, 2004.

Mayor Walkup said in that case, he thought it was inappropriate. He said they were headed towards resolving this issue and bringing it forward for final consideration on September 27, 2004. His recommendation was they allow the Public Hearing to close.

Mayor Walkup recognized Council Member Ibarra.

Council Member Ibarra asked Mr. Rankin if they would have the ability to have a public dialogue on September 27, 2004.

Mr. Rankin responded that it would be up to the chair to allow people to speak. It would not be scheduled as a Public Hearing.

Council Member Ibarra said that since the Mayor had the prerogative, he would vote to close the Public Hearing. If there were some outstanding issues, he hoped the Mayor would allow people to have some dialogue with the council.

Mayor Walkup responded that he would.

The motion to close the public hearing carried by a voice vote of 7 to 0.

Mayor Walkup called on Vice Mayor Ronstadt.

Vice Mayor Ronstadt said before making his motion, he wanted to remind everyone they also had this scheduled for Study Session for September 20, 2004 to review the progress that had been made between now and then, and then obviously on September 27, 2004.

It was moved by Vice Mayor Ronstadt, duly seconded, to schedule the adoption of a road impact fee ordinance for September 27, 2004.

Mayor Walkup asked if there was further discussion.

Council Member Ibarra asked Vice Mayor Ronstadt if in doing this, he was also going to add that staff come back to answer all the questions they had in Study Session and also answer all the questions that the stakeholders had. He asked if his motion included that aspect.

Vice Mayor Ronstadt responded that this particular action had already been taken earlier during Study Session. That was the dialogue that was going to occur on Monday.

Council Member Ibarra said he just wanted to make sure that issue was reinforced.

Mayor Walkup called on Council Member West.

Council Member West said there were some interesting points made. She took notes and said she would take them back to the office to look at them. She thanked everyone for sitting through the meeting and participating in this. She said that John Holloway had a question about the vacant lot in an area that had already been developed and how the fee would impact it. She did not know if the Council wanted to talk about that now or if they wanted to bring it up at Study Session, but she thought that was something they should talk about. She asked Mayor Walkup how he wanted to handle this.

Mayor Walkup said he thought there were a lot of things brought up at the meeting.

Council Member West said she had several thoughts and maybe they should take it to the Study Session. She wanted to make sure staff had that; a vacant lot in a developed area and how that would be worked. She added there was a lot of discussion from several people about waiving affordable housing costs and the fact that affordable housing would be driven up. As she understood it, they could not waive these fees and asked Mr. Rankin if that was correct.

Mr. Rankin responded that he was sure one of the issues they would be dealing with in Study Session would be the issue of what the fee would be in the core. He said that Council Member West's question might go in part to that. The danger of a separate waiver provision would be that it could be applied in a discriminatory fashion or in an arbitrary way. He said it would be their advice not to have a waiver provision that was not in the context of the benefit district as a whole, in terms of what the discussion had been with regards to the core. But he was sure they would want to discuss that more completely at the next meeting.

Council Member West said that was good, because she thought they needed to have a discussion on that. She said there was a concern on the part of many of the speakers that homebuilders' interests were not considered quite as strongly as the commercial portion of the ordinance, or it was their perception. She said they probably would take another look at that. If the fee was lowered, it would be her recommendation that they not change the phasing, that the phasing in the ordinance be considered, but perhaps other people would weigh in on that. She noted that the Director of Asset Management for the State Land Department brought this out and thought it should be more equitable.

Council Member West referred to some of Mary Grier's issues about planned area development, and said she thought something had already been done about it. She suggested the Council look at that again and try to work it out. Also, the parks, if they could adopt the regional parks part. She asked if there was merit in adopting one part of the park's proposal for impact fees when they had not looked at the smaller parks and the issues there. She did not know if it made sense to adopt it as a whole and give a date

certain on doing that. Or go ahead as some of them would like to do, and bring the regional fee up at that time.

Council Member West referred to Don Bourn's comments, stating that maybe they were giving them a little break on annexation. That might be their perception, but at the same time they would be generating some sales tax revenues that could be helpful to them. There was some give and take on that. Council Member West said that she felt Diamond Ventures was unique in that they had some land south of Interstate 10, and noted they might need to look at the *Major Streets and Routes Plan* updates, before the ordinance becomes effective. She thought that was something that should be considered.

Council Member West said she probably missed some things, but the ones she mentioned were the heart of the matter. She was in sympathy with Council Member Ibarra's motion to continue the Public Hearing, but did not think they wanted to keep dragging this process. She said that most of the stakeholders were not shy and they would come back. They called her office just last week, she was swamped and knew she would continue to hear from them. She said she would be happy to take their calls.

Mayor Walkup called on Council Member Scott.

Council Member Scott said she assumed that City staff would, in fact, listen to any and all of the recommendations from the various presenters that were at the meeting, and asked if a directive was needed for that instead.

James Keene, City Manager, said that staff would certainly be paying attention to everything that was said at the meeting. He thought that regardless of where people were, every speaker got up and acknowledged the process, the abilities of the City staff involved. They would not see a break in that and obviously they were in a position of supporting the Mayor and Council, as to where they wanted to go in their ultimate decision. It was in the interest of having the Council reach a decision that staff pay attention to everything that was said. Some of the issues had been mentioned, but there were many more and Mr. Keene said they were all taking notes as people were speaking.

Council Member Scott said she noticed they were all taking copious notes and noted that there was also the tape. But she wanted to be sure any and all of these outstanding issues had been laid to rest by the time the Council came to the final ordinance, so they could all stand as a community and say they were united; they agreed and they had come to a consensus.

Mayor Walkup said they had come a long way and thanked everyone in the audience for all the work they had done. He said they should all pledge themselves to get the job done. It was very important for the community, and it was very important that they finally get growth to pay for itself. He commended staff for doing a good job.

Mayor Walkup recognized Vice Mayor Ronstadt.

Vice Mayor Ronstadt said he wanted to bring up a technical thing. While Council Member West was talking about the parks fees and bringing some of those back, the motion that he read just talked about the road impact fees. He asked if that excluded them from acting on a park's fee and asked if he would have to modify the motion.

Mr. Rankin responded that if the Council wanted parks to be included in the discussion, they should.

Vice Mayor Ronstadt said that generally, some of the Council Members had talked about potentially taking action on that, so he wanted to make sure the motion allowed for that and that it would not be delayed.

Mr. Rankin said the Council might want to reexamine what exactly the motion was.

Kathleen S. Detrick, City Clerk, said the discussion on September 20, 2004 could include the parks, because that was Study Session, whether they wanted to just address this particular ordinance on September 27, 2004 or whether they had an ordinance that included parks on September 27, 2004. The notice that the City Clerk's Office provided, she believed, covered everything.

Vice Mayor Ronstadt said he did not want to get tied into a technical mire, where they would not be able to act. He thought it was the intent of some Council Members that if it was reasonable and they could do it, then they wanted to act.

Mayor Walkup recognized Council Member Dunbar.

Council Member Dunbar said she hoped staff seriously listened to the State Land Department. She had some concerns, because she believed that was one of the areas they thought the Council needed to hold up on. She urged that everyone be very precise and careful as they had been on the road impact fee. If she was not mistaken, that was one area the State Land Department said they should not move forward on parks. She thought they should seriously start to listen carefully to what the State Land Department said.

Mayor Walkup asked if there was any further discussion. There was none.

Motion to schedule the adoption of a road impact fee ordinance for September 27, 2004, carried by a voice vote of 7 to 0.

9. PUBLIC HEARING: TUCSON CODE AMENDING (CHAPTER 29) RELATING TO THE REGULATION OF DEVELOPMENTS NEAR LANDFILLS

Mayor Walkup announced City Manager's communication number 484, dated September 13, 2004, would be received into and made a part of the record. He also announced this was the time and place legally advertised for a public hearing with respect

to the regulation of developments near landfills. He also announced that before beginning the public hearing, staff would make a brief presentation and called on the City Manager.

James Keene, City Manager, said he was getting some questions and potential confusion about what this ordinance applied to, so he asked staff to give a quick background and overview to try to clarify some of those points. Then they would be able to answer any questions.

Karen Masbruch, Environmental Services Deputy Director, provided a summary of the changes in the Landfill Ordinance. She reported that Environmental Services, in concert with the Tucson Fire Department and Development Services, was proposing revisions to the 1997 Landfill Ordinance. She noted that Dan Uthe was in attendance representing the Tucson Fire Department. The revisions were improvements to the ordinance, which were the result of knowledge gained from thousands of methane monitoring measurements taken over the past seven years at twenty-seven landfills. Input was solicited from the City Ward Offices, Southern Arizona Home Builders Association (SAHBA), Tucson Association of Realtors, and the Appraisal Institute.

Ms. Masbruch continued that the revisions were reviewed and approved by the Environmental Services Advisory Committee (ESAC). Major changes to the ordinance included clarification of responsibility for compliance, operation and reporting of landfill gas systems. Changes also included increasing the distance between the landfill boundary and development from fifty feet to one hundred feet, where a detailed design would have to be sealed by a registered engineer or a geologist to prevent methane impact. They also proposed decreasing the distance between the landfill boundary and the extent of area regulated under the ordinance from one thousand to five hundred feet, as the methane concentrations become negligible at that point. The proposed changes clarified requirements for development within the area regulated by the ordinance to include site assessment of the landfill, description of the current methane conditions and a demonstration that the methane would not impact the development. They included a methane control system, if it is necessary to protect a development, construction details to accommodate the methane migration and reporting requirements for methane monitoring and control systems. Lastly, they included the establishment of city access to methane data and control systems. She concluded by saying she would be happy to answer any questions.

Mayor Walkup recognized Council Member West.

Council Member West asked why volatile organic compound along with methane was not included.

Ms. Masbruch responded that if they refer to Section 29-23, she believed that the volatile organic compounds were included within the assessment of the landfill. Upon reviewing that data, they would look at the other volatile organic compounds.

Mayor Walkup announced the Public Hearing was scheduled to last for no more than one hour and speakers would be limited to five-minute presentations. He called on the first speaker.

Patty Richardson said she was representing the Tucson Association of Realtors. She told the Council that if every ordinance that came before them went as smoothly as this ordinance, all of their jobs would be so much easier. She said it had been great working with City staff. They worked with Dan Uthe from the Tucson Fire Department. They had an opportunity to go through the ordinance, look at where the language needed to be clarified. They looked at it from their perspective of protecting the interest of the City and looking at their perspective of protecting the interest of private property rights. She added there was just one tiny amendment they wanted to request. She referred to Section 29-22, under Scope of Application, where it talked about existing development exception. The words "or to a principle residential structure" should be deleted from the ordinance, as it was already covered in the language. She noted that just prior to that in the very same sentence, they were dealing with additions to any building, so it was already there.

James Keene, City Manager, pointed out it was on page four, at the top of the page, if the Council Members had not found it.

Ms. Richardson apologized, but said she did not have the same page numbers. She continued that they talked to the City Attorney earlier, in requesting this. They thought it was just a carryover of a phrase that was there from the old ordinance. They were very comfortable with absolutely everything else, every period, every "i", every "t". That was their only request and with that, she asked if the Council had any questions for her.

Mayor Walkup said they would give that due consideration. He asked if there was anyone else in the audience who wished to address the Council on this issue. Hearing no one, he asked for a motion to close the Public Hearing.

It was moved by Council Member West, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked if there were any discussions. Hearing none, he asked the City Clerk to read Ordinance 10037 by number and title only.

Ordinance 10037 relating to development and environment; amending Chapter 29 Article IX of the Tucson Code, clarifying and revising the Landfill Ordinance and providing for penalties for non-compliance; and declaring an emergency.

(Note: Council Member Leal departed at 8:46 p.m.)

Mayor Walkup recognized Council Member Ibarra.

It was moved by Council Member Ibarra, duly seconded, to pass and adopt Ordinance 10037, as amended by the representative of the Tucson Realtors Association.

Kathleen S. Detrick, City Clerk, announced that she wanted to make sure she understood the amendment. She clarified that this was an amendment to Section 29-22 and asked if this was correct.

Michael Rankin, City Attorney, responded that was correct. He said he could read the amendment that was proposed. The amendment that was proposed was to Section 29-22, Scope of Application, the second paragraph would be changed to read "Existing development exception: the development regulations set forth in Section 29-24, shall not apply to any addition to a building."

Ms. Detrick thanked the City Attorney and said that clarified the record.

Mayor Walkup asked for a roll call vote on the motion.

Upon roll call, the results were:

Aye: Council Members Ibarra, West, Dunbar, Scott;
Vice Mayor Ronstadt and Mayor Walkup

Nay: None

Absent/Excused: Council Member Leal.

Ordinance 10037, as amended was passed and adopted by a roll call vote of 6 to 0.

10. ZONING: (C9-04-04) ELKS CLUB – RIVER ROAD SR TO R-3 AND O-2 ZONING, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN

Mayor Walkup announced City Manager's communication number 485, dated September 13, 2004, would be received into and made a part of the record. He also announced this was a request to allow a change to the preliminary development plan for the property located on the south side of River Road, east of Campbell Avenue. The City Manager recommended approval of the requested change of conditions and preliminary development plan subject to certain conditions. He asked if the applicant or a representative was present and if they were aware of and agreeable to the proposed requirements.

Mike Grassinger, the Planning Center, said they were agreeable with the improved and amended conditions.

Mayor Walkup recognized Council Member Dunbar.

It was moved by Council Member Dunbar, and duly seconded, to approve the request for rezoning as recommended by the Zoning Examiner.

Kathleen S. Detrick, City Clerk, apologized and reported that she believed the wrong motion was included in the Council members' materials. She said the motion should read that they approve the request as presented and as recommended by the City Manager, with the conditions, and asked the City Attorney if that was correct.

Michael Rankin, City Attorney, said that was correct.

Council Member Dunbar agreed with the noted correction to the motion.

The motion to approve the request as presented and recommended by the City Manager, was declared passed by a voice vote of 6 to 0, (Council Member Leal absent/excused).

11. APPOINTMENTS TO BOARDS, COMMISSIONS AND COMMITTEES

Mayor Walkup announced City Manager's communication number 488, dated September 13, 2004, would be received into and made a part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Dunbar, duly seconded, and carried by a voice vote of 6 to 0, (Council Member Leal absent/excused), to appoint Carla J. Stoffle and Joel D. Valdez to the Library Board.

Mayor Walkup asked if there were any personal appointments by any member of the Council.

There were none.

12. ADJOURNMENT: 8:49 p.m.

Mayor Walkup announced the Council would stand adjourned until its next regularly scheduled meeting, to be held on Monday, September 20, 2004, at 5:30 p.m., in the Mayor and Council Chambers in City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 13th day of September, 2004, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD:sac/bp